

FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554

JAN 31 2003

OFFICE OF
MANAGING DIRECTOR

Mr. Peter **Gutmann**
Pepper & Corazzini, LLP
1776 K Street, N. W.
Suite 200
Washington, DC 20006

Re: Request for Filing Fee Refund
Fee Control No. 0110118195475002

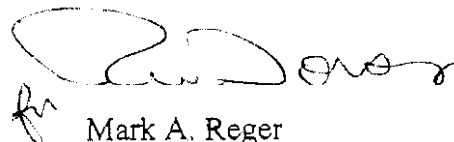
Dear Mr. **Gutmann**:

This letter is in response to your request dated October 2, 2001 for a refund of **the** filing fee submitted on behalf of Butterfield Broadcasting Corp.

Section 1.1117 of the Commission's Rules, 47 C.F.R. § 1.1117, provides that filing fees may be waived upon a showing of good cause and a finding that the public interest will be served thereby. See Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1985, 2 FCC Rcd 3558, 3572-73 (1990). We find that KZTA(FM) and KZTB(FM) were authorized changes that individually required rulemaking fees. KZTA(FM) involved a change in community of license and KZTB(FM) an upgrade that required modification of another allotment. The fact that both are co-owned and modified in the same proceeding does not eliminate the required fee for both stations. Therefore, your request is denied.

If you have any questions concerning **this** matter please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer

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PEPPER & CORAZZINI, LLP
ATTORNEYS AT LAW

1776 K STREET, N.W., SUITE 200
WASHINGTON, D.C. 20006-2334

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

AUDIT
DIVISION

PETER GUTMANN
EXT. 232
PG@COMMLAW.COM

October 2, 2001

(202) 296-0600
FAX (202) 296-5572
WWW.COMMLAW.COM

Ms. Magalie Salas
Federal Communications Commission
Attn: Managing Director
445 Twelfth Street, SW
Washington, DC 20554

Re: Butterfield Broadcasting Corp.
KZTA (FM), Naches, WA (Facility ID No. 36006)
File No. CDBS20010927AAP
Request for Partial Refund of Fee

Dear Ms. Salas:

Butterfield Broadcasting Corp., by its attorney, pursuant to Sections 0.231(a) and 1.1113(a)(1) of the Commission's rules hereby respectfully requests a refund of \$2,090 of the \$2,845 payment submitted to the FCC on October 2, 2001 with respect to the referenced matter.

In support of this request, we respectfully note that the full payment of \$2,845 was submitted upon advice from Commission processing staff. However, we submit that only \$755 of the payment was properly assessed and that the remaining \$2,090 should be refunded.

The subject application (CDBS20010027AAP) was filed in connection with the Commission's Report and Order in MM Docket 01-95, DA 01-1910, released August 10, 2001 (the "Report and Order"). The Report and Order granted two concurrent and related types of relief. The first was to change the community of license of station KZTB (FM) (Facility ID No. 4758) from Sunnyside to Benton City, Washington. Since a change of community was involved, and since rulemaking was required, we do not dispute that a rulemaking fee is required for the KZTB change, and in fact is about to be paid.

The second change implemented by the Report and Order was the modification of the KZTA license to specify operation on Channel 245C2 in lieu of Channel 245A at the same community (Naches, Washington). We respectfully submit that this KZTA change should not be subject to a second rulemaking fee, insofar as seeking a higher class co-channel is merely a minor change permitted by means of a single application without resort to rulemaking pursuant to Section 73.3573(a)(1) of the Commission's rules.

Ms. Magalie Salas
October 2, 2001
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Paragraph 9 of the Report and Order reads as follows:

Pursuant to Commission Rule Section 1.1104(1)(k) and 2(k), any party seeking a change in community of license of an FM or television allotment or an upgrade of existing FM allotment, if the request is granted, must submit a rulemaking fee when filing its application to implement the change in community of license and/or upgrade. As a result of this proceeding, Butterfield Broadcasting Corporation Licensee of Stations KZTA(FM), Naches, Washington and KZTB(FM), Sunnyside, Washington, is required to submit a rulemaking fee in addition to the fee required for the application to effectuate the upgrade at Naches and the change of community ~~from~~ Sunnyside to Benton City, respectively.

We respectfully submit that this language is somewhat ambiguous, insofar as it specifies only "a rulemaking fee" (emphasis added), and we had originally assumed that the reference was to a single rulemaking fee, presumably in conjunction with the KZTB change. However, out of an abundance of caution we checked with Commission staff, who are of the View that both applications (that is, for KZTA and for KZTB) require a separate fee. As the licensee of both stations is anxious to proceed with the changes authorized by the Commission, we did not want to delay submission of the applications while this matter was resolved. Accordingly, we have submitted the applications and, out of an abundance of caution, have submitted rulemaking fees with both applications. However, for the reasons set forth above, we believe that the KZTA application does not require a rulemaking fee and therefore request that \$2,090 (Fee Code MRR) of the amount paid for CDBS20010927AAP be promptly refunded.

Should any further information be required in support of this request, please communicate directly with this office.

Sincerely,


Peter Gutmann

Cc: Gregory J. Smith

PG/rsm
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(1) LOCKBOX # 358195	FCC/MELLON OCT 10 2001	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">SPECIAL USE</td> </tr> <tr> <td style="padding: 2px;">FCC USE ONLY</td> </tr> </table>	SPECIAL USE	FCC USE ONLY		
SPECIAL USE						
FCC USE ONLY						
(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card) Butterfield Broadcasting Corp.		(3) TOTAL AMOUNT PAID (U.S. Dollars and cents) \$2,845.00				
(9) DAYTIME TELEPHONE NUMBER (include area code) (509) 452-0540 / (202) 296-0600		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">(7) STATE</td> <td style="width: 50%; padding: 2px;">(8) ZIP CODE</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;">98901</td> </tr> </table>	(7) STATE	(8) ZIP CODE		98901
(7) STATE	(8) ZIP CODE					
	98901					
(10) COUNTRY CODE (if not in U.S.A.) 0004-2811-50 1911602170						
IF THE NAME OF THE APPLICANT NAME ARE DIFFERENT, COM SECTION B IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)						
13) APPLICANT NAME						
(16) CITY		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">(17) STATE</td> <td style="width: 50%; padding: 2px;">(18) ZIP CODE</td> </tr> <tr> <td style="padding: 2px;"></td> <td style="padding: 2px;"></td> </tr> </table>	(17) STATE	(18) ZIP CODE		
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FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN)						
(21) APPLICANT (FRN)		(22) APPLICANT (TIN)				
(26A) FEE DUE FOR (PTC) \$755.00	(27A) TOTAL FEE \$755.00	FCC USE ONLY				
(28A) FCC CODE 1 36006	(29A) FCC CODE 2 CDBS20010927AAP					
(23B) CALL SIGN/OTHER ID	(24B) PAYMENT TYPE CODE (ZSB) QUANTITY					
(26B) FEE DUE FOR (PTC)	(27B) TOTAL FEE	FCC USE ONLY				
(28B) FCC CODE 1	(29B) FCC CODE 2					
SECTION E - CREDIT CARD PAYMENT INFORMATION						
(31) <input type="checkbox"/> MASTERCARD <input type="checkbox"/> VISA	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="padding: 2px;">MASTERCARD/VISA ACCOUNT NUMBER</td> <td style="padding: 2px;">EXPIRATION</td> </tr> <tr> <td style="padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <div style="width: 100%;"> <div style="border-bottom: 1px solid black; width: 100%; height: 15px;"></div> </div> </div> </td> <td style="padding: 2px;"> <div style="display: flex; justify-content: space-between;"> <div style="width: 100%;"> <div style="border-bottom: 1px solid black; width: 100%; height: 15px;"></div> </div> </div> </td> </tr> </table>	MASTERCARD/VISA ACCOUNT NUMBER	EXPIRATION	<div style="display: flex; justify-content: space-between;"> <div style="width: 100%;"> <div style="border-bottom: 1px solid black; width: 100%; height: 15px;"></div> </div> </div>	<div style="display: flex; justify-content: space-between;"> <div style="width: 100%;"> <div style="border-bottom: 1px solid black; width: 100%; height: 15px;"></div> </div> </div>	
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I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described.						
SIGNATURE _____ DATE _____						